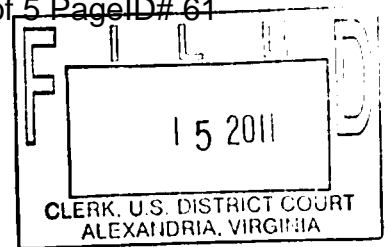


Prob 12A
(Mod. For E.VA 10/09)

**UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF VIRGINIA**



U.S.A. vs. Michael Leon Avery, Jr. Docket No. 1:11PO8

Petition on Probation

COMES NOW Bethany M. Erding, PROBATION OFFICER OF THE COURT, presenting an official report upon the conduct and attitude of Michael Leon Avery, Jr., who was placed on supervision by the Honorable Thomas Rawles Jones, Jr. sitting in the Court at Alexandria, Virginia, on the 7th day of June, 2011, who fixed the period of supervision at one (1) year, and imposed the general terms and conditions heretofore adopted by the Court and also imposed special conditions and terms as follows:

See Page 2.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

See Attachment(s)

PRAYING THAT THE COURT WILL ORDER a warrant to be issued directing that the offender appear before the Court to show cause why supervision should not be revoked.

ORDER OF COURT

Considered and ordered this 15th day of September, 2011 and ordered filed and made a part of the records in the above case.

/s/Thomas Rawles Jones, Jr.

Thomas Rawles Jones, Jr.
United States Magistrate Judge

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 9/15/11

Bethany M. Erding
Bethany M. Erding
U.S. Probation Officer

Place Alexandria, Virginia

TO CLERK'S OFFICE

Petition on Probation

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RE: Avery, Michael Leon Jr.

SPECIAL CONDITIONS:

- 1) The defendant shall enter and successfully complete an alcohol education program as directed.
- 2) The defendant shall undergo substance abuse testing and/or treatment as directed.
- 3) The defendant shall not operate a motor vehicle anywhere in the United States for a period of one (1) year except a) to, from, and as directly required by the defendant's employment, b) to and from the probation office, c) to and from the programs required by probation, d) to and from this court.
- 4) The defendant shall not violate any local, state, or federal traffic law.
- 5) The defendant shall serve four (4) days jail as directed pursuant to 18 U.S.C. Section 3563 (b)(10) and the defendant is remanded to the custody of the United States Marshal to be released at 3:00 p.m. on Friday, June 10, 2011.
- 6) The defendant shall pay the \$200.00 fine and \$10.00 special assessment fee within 90 days.

Petition on Probation

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RE: Avery, Michael Leon Jr.

OFFENSE: Driving While Intoxicated with BAC of .08% or More

SENTENCE: One (1) year supervised probation with the special conditions listed on page 2.

ADJUSTMENT TO SUPERVISION: On June 10, 2011, the defendant was released from the custody of the U.S. Marshal Service after serving four (4) days of incarceration ordered by Your Honor. On June 14, 2011, during an office contact, the defendant signed his conditions of supervision and provided proof that he paid his fines and fees in full effective June 7, 2011. Due to the defendant's extensive drug history, he was assigned to Phase 3 drug testing. The defendant also provided a urine specimen that returned positive for methamphetamines as confirmed by Alere Toxicology on July 1, 2011.

On June 15, 2011, the defendant was referred to the Fairfax Alcohol Safety Action Program (ASAP). On June 30, 2011, the defendant reported for his scheduled intake, and ASAP recommended additional substance abuse treatment.

On July 7, 2011, during an office visit, the defendant signed a substance abuse admission form admitting to using methamphetamines on or about July 4, 2011. The defendant was then upgraded to Phase 1 drug testing and referred to the Harrison House for a substance abuse evaluation. The Harrison House recommended intensive outpatient treatment (IOP). On July 19, 2011, the defendant began attending IOP two times a week. Furthermore, the defendant began attending individual mental health and substance abuse treatment with Dr. Marr, located in Alexandria.

On July 20, 2011, due to illegal drug use, a No Action Petition was submitted, and on July 21, 2011, Your Honor approved the No Action request.

On August 2, 2011, during an office contact, the defendant admitted to using methamphetamines on a daily basis since the commencement of supervision. On that same date, the defendant signed a substance abuse admission form admitting to using methamphetamines on or about August 1, 2011. Due to continued drug use, the defendant was instructed to attend the Harrison House day treatment program. Additionally, a Petition on Probation was submitted to Your Honor on August 5, 2011. On August 8, 2011, Your Honor ordered that the defendant appear in Court on August 30, 2011, at 10:00 a.m.

On August 25, 2011, an Addendum to Petition on Supervised Probation was submitted to Your Honor citing the defendant for continuing to use methamphetamines, as verified by confirmation received from Alere Toxicology on August 24, 2011.

Petition on Probation

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RE: Avery, Michael Leon Jr.

On August 30, 2011, the defendant appeared before Your Honor for a hearing on violation. On that date, Your Honor continued his case until October 25, 2011, at 10:00 a.m.

VIOLATIONS: The following violations are submitted for the Court's consideration.

SPECIAL CONDITION 2: THE DEFENDANT SHALL UNDERGO SUBSTANCE ABUSE TESTING AND/OR TREATMENT AS DIRECTED.

On September 7, 2011, during an office contact with the undersigned, Mr. Avery agreed to enter into an inpatient treatment program when placement became available. On September 8, 2011, at approximately 11:30 am, confirmation was received from Vanguard Services that a bed became available at the Phoenix House, a men's inpatient treatment program, located in Arlington. In an attempt to locate Mr. Avery, this officer contacted his outpatient treatment providers and they advised that Mr. Avery failed to report for his 10 a.m. and 11:30 a.m. appointments as scheduled.

On September 8, 2011, Vanguard Services indicated that they instructed Mr. Avery to report to their office for an intake on that date by 12:30 p.m. However, this officer received confirmation from Vanguard Services that he failed to report to their program as instructed.

CONDITION 2: THE DEFENDANT SHALL REPORT TO THE PROBATION OFFICER AS DIRECTED.

On August 24, 2011, during an office contact, the defendant was instructed to report to the U.S. Probation Office every Monday. However, on Monday, September 12, 2011, the defendant failed to report as instructed.

CONDITION 3: THE DEFENDANT SHALL ANSWER TRUTHFULLY ALL INQUIRIES BY THE PROBATION OFFICER AND FOLLOW THE INSTRUCTIONS OF THE PROBATION OFFICER.

On August 24, 2011, during an office visit, this officer instructed Mr. Avery to provide this officer with AA attendance documentation at every appointment with probation, including his code-a-phone appointments. On August 29, and 30, 2011, and September 7, and 8, 2011, the defendant failed to provide this officer the requested documentation.

Petition on Probation

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RE: Avery, Michael Leon Jr.

**CONDITION 6: THE DEFENDANT SHALL NOTIFY THE PROBATION OFFICER
AT LEAST 10 DAYS PRIOR TO ANY CHANGE IN
RESIDENCE OR EMPLOYMENT.**

On September 14, 2011, this officer contacted Mr. Avery's mother, by telephone, and inquired about his whereabouts. She indicated that he has not been home since September 7, 2011. To date, the defendant has not received permission to change his residence, and his whereabouts are unknown.

CONDITION 7: USE OF METHAMPHETAMINES.

On August 18, 19, 24, 25, 28, and 29, 2011, Mr. Avery submitted urine specimens that were confirmed positive for methamphetamines by Alere Toxicology. On August 30, 2011, and September 6, 2011, urine specimens were taken and confirmation remains pending.

On September 7, 2011, during an office contact, Mr. Avery admitted to using methamphetamines on a daily basis since the onset of supervision. He further admitted to using methamphetamines the night prior to his violation hearing, as well as hours before he appeared before Your Honor. Mr. Avery also signed an Admissions of Drug Use form admitting to methamphetamine use on September 6, 2011.

BME/mbp 